

MINUTES
KITTY HAWK TOWN COUNCIL
Monday, January 4, 2021
Kitty Hawk Town Hall, 6 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Presentation
 - Dare County – Dare County Occupancy Tax Fund
5. Consent Agenda
 - a.) Approval of December 7, 2020 Council Minutes
 - b.) FY 20-21 Budget Amendment #6
 - c.) FY 20-21 Budget Amendment #7
6. Items Removed from the Consent Agenda
7. New Business
 - a.) Capital Project Ordinance for the Beach Renourishment Project
 - b.) Hurdle Street Comments *(added during the meeting)*
8. Reports/General Comments from Town Manager
9. Reports/General Comments from Town Attorney
10. Reports/General Comments from Town Council
11. Public Comment
12. Recess to January 25, 2021, 9 AM for Capital Improvements Plan Workshop

COUNCILMEMBERS PRESENT:

Mayor Gary Perry, Mayor Pro Tem Craig Garriss, Councilwoman Lynne McClean and Councilman Jeff Pruitt

COUNCILMEMBERS ABSENT:

Councilman David Hines

STAFF MEMBERS PRESENT:

Town Manager Andy Stewart, Town Clerk Lynn Morris, Town Attorney Casey Varnell, Police Sergeant Jeff Wiggins

This meeting was live streamed on YouTube and could be listened to by telephone.

1. CALL TO ORDER

Mayor Perry called this meeting to order at 6 p.m. He announced Councilmember Hines is absent and excused.

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2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

Following a moment of silence, the Pledge of Allegiance was recited.

3. APPROVAL OF AGENDA

Following Mayor Perry's request to add 7(b) Hurdle Street Comments to the agenda, **MPT Garriss moved to approve the agenda with the addition. Councilwoman McClean seconded and it was unanimously approved, 4-0.**

4. PRESENTATION

- **Dare County – Dare County Occupancy Tax Fund** – Not seeing Dare County Manager Bobby Outten in attendance Mayor Perry moved on with the agenda. *(This presentation is under agenda item #10)*

5. CONSENT AGENDA

- a.) **Approval of December 7, 2020 Council Minutes.** *(An approval of the consent agenda will approve these minutes.)*
- b.) **FY 20-21 Budget Amendment #6.** This amendment, in the amount of \$422,748, will transfer funds from the Capital Reserve fund to the Beach Renourishment fund for design and environmental permitting services. *(An approval of the consent agenda will approve this budget amendment.)*
- c.) **FY 20-21 Budget Amendment #7.** This amendment, in the amount of \$2,500, will recognize the final invoice for the filming of the town history videos funded by the Government Education Access Channel. *(An approval of the consent agenda will approve this budget amendment.)*

Councilwoman McClean made a motion to approve the consent agenda. It was seconded by Councilman Pruitt and the vote was 4-0.

6. ITEMS REMOVED FROM THE CONSENT AGENDA

No items were removed from the consent agenda.

7. NEW BUSINESS

a.) Capital Project Ordinance for the Beach Renourishment Project

Stewart: *If you recall the beach nourishment project was completed 4 years ago. During the initial planning stages the town council must adopt a specific project ordinance for the beach renourishment that is coming up in 2022. When we get additional costs as to the construction, we will be revising this ordinance so you will see it again. So tonight, this ordinance is just recognizing the appropriations for the design and engineering services in the amount of \$422,748.*

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Perry: *Casey do we have to read this whole document, or can I perhaps read the first part which covers what we are doing? Is that sufficient?*

Varnell: *That will be sufficient.*

Perry: *For the record I am going to read two parts so that the public understands what we are doing. "Be it ordained by the governing board of the Town of Kitty Hawk, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina the following capital project ordinance is hereby adopted.*

Section 1: the project authorized is a 2022 beach nourishment project to be financed by special obligation bonds, contributions from Dare County Beach Nourishment Occupancy Tax Fund, ad valorem revenues and other sources of revenue. The project life is estimated to be through July 2027 and will be amended throughout the project."

The rest of the sections go through some rather mundane things that must be done. And in order to get a special obligation bond this is one of the first steps. We went through heck the first time, but we are trying to get things smoothed out this second time.

Do I hear a motion to approve this capital project ordinance?

MPT Garriss: **Mr. Mayor I will make a motion to approve the capital project ordinance for the beach nourishment project. It was seconded by Councilwoman McClean and passed unanimously 4-0. (Ordinance No. 21-01)**

b.) Hurdle Street Comments

Perry: *Comments concerning paper street Hurdle. As correctly reported by The Coastland Times after the last Kitty Hawk Recreation Committee meeting the future possibility of turning town owned paper street, Hurdle, into public access parking for beach access was discussed.*

Before discussing that further let me step back and give insight to the role the Recreation Committee plays in this local governing body. The five-member body is an all-volunteer membership composed of town residents. They act as an advisory group reporting enhanced recreational opportunities within the town to council. They also determine the content of a town Master Plan used for long range recreational planning. The plan is necessary for the town to be eligible for grants to add parks, trails and associated amenities for local and visitor use. Whether any of the items listed on the Master Plan ever come to fruition is completely up to the presiding council to decide, plan, budget or seek funding from sources other than town tax revenue.

As council liaison to the committee, I brought to their attention several possible town enhancements for consideration into the Master Plan. Hurdle Street parking was discussed as a town wide need for additional beach parking access for all the 3,000 plus residents of town as well

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as visitors. Many questions and answers such as first steps to determine feasibility were discussed. To that end the committee learned that an engineering plan would be required to determine possible layout and actual beach access from Hurdle. For example, does the town own beach side property that could be safely accessed if private property directly across from Hurdle is not available to the town? I advised committee members that local area push back was normal whenever change was considered. As expected, a full-blown NIMBY bloom has occurred resulting from a discussion of public use of public property for public benefit as discussed by a public body.

My purpose in bringing these comments to public light is to provide breathing room to a majority new and recently installed all volunteer Recreation Committee. The committee may include Hurdle Street in the planning document or not. Either way, elected councilmembers will decide which recommendations to consider for budget and follow through considering what will bring the most benefit to the whole Town of Kitty Hawk. Comments thus far received by council are being shared with the Recreation Committee. Future comments should continue rightly to come to council.

Having said that Bobby Outten is here, and he will address council later.

8. TOWN MANAGER

Stewart: *I just have one update. I have shared with the council, but for the general public, the Town of Kitty Hawk has received a grant from the North Carolina Department of Natural Resources for \$69,000 and some change that will go towards a trail connection at the Dare County Park to a Birch Lane Trail which is in the Kitty Hawk Woods Preserve. It is a 1.8-mile trail and it will open up additional recreational opportunities for our residents and visitors. The Dare County Tourism Board also has held onto some grant funds for us for about \$42,000 that will go towards that project as well. We plan on beginning the project here in the next two to three months. Hopefully, we can get the project constructed before the summer. It will consist of about a five-hundred-foot walkway which is traversing some water. It will make a real nice connection. It will be a good amenity, a good asset to the county for our residents and to that park itself. We are excited about it and we were glad we were able to receive those grant funds.*

On another note, I know Mayor Pro Tem Garriss sits on the Currenttv Committee as a representative for the town and they gave us a grant to fund a history video. I would like to go ahead and show it. This is the second in a history series and captures a lot of the history of our town.

(The video is titled Up the Road and Down the Road and is narrated by former Mayor Clifton Perry. He is a native of Kitty Hawk and served on the governing body for 26 years.)

Perry: *That is a good video. I am glad to see we got the PARTF grant. We have a Rec Committee that is enthusiastic, and they know how to get volunteers to help with projects. That is going to be good.*

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9. TOWN ATTORNEY

No further comments.

10. TOWN COUNCIL

Agenda Item #4. Dare County Presentation by County Manager

Outten: *Thanks for having me here. It has been a while since I have been to Kitty Hawk and it is always nice. I want to talk to for a minute about beach nourishment. Mayor this is going to be a little redundant for you because this is going to be similar to the conversation we had with you and the other mayors a few weeks ago to sort of open the door and let you know our thinking. Now we are at a point where we must make some final decisions and we want to lay it out for you. Tell you what we are thinking, kind of the direction we think we are going in and then hear back from you. If we are creating problems we were not aware of or there is something that comes out of this that we need to know about we can figure out how to solve those problems.*

The whole premise of everything we have done regarding beach nourishment from day one is to try to get as much sand on the beaches throughout Dare County as we could. When we began working on the Kitty Hawk project back in the day, we were trying to figure out how do we make sure Kitty Hawk, with its much smaller tax base, benefits from the beach nourishment fund as much as the other towns with the larger tax bases. Get a project to solve some problems that Kitty Hawk has. We were able to do that through working together, having these kinds of conversations that we are going to have with you tonight. We found a way to make it work.

As some of you will recall when we did those projects, we did an MOU, and we sort of all bound the towns together to do one contract so we could save on all those mobilization costs. In that MOU agreement was that if we got a bid and the bid came in under, or if there were excess funds, that those savings went back into the Beach Nourishment Fund to be used for future projects whether they are in Kitty Hawk or whether they are somewhere else. They went to enhance the fund because the goal of the beach nourishment fund is to fund everything in Dare County not just a particular town.

With that background in mind, we have gone through and we have worked models. I think we are on model #26g. We have done a lot of modeling on projects over the last number of years where we take into account the future costs for maintenance. Our premise has been we do not want to do a project if we cannot plan for the future maintenance of that project and have the funds available between the county and the town to make that maintenance happen. Otherwise, we are wasting money. We run these models to be sure we can take care of what we have before we start looking at doing more. We have run those models on the projects coming forward as well.

We have basically used up most, if not all of the money, a significant amount of the money in the last round of projects in which Kitty Hawk participated. We projected out the fund as it grows. We

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have money in the kitty for Kitty Hawk to do ... we will cover our share of the maintenance just like we promised and just like we discussed previously.

Now coming forward 5 years later we have two more projects that are clamoring for help. One project has a problem very similar to what Kitty Hawk's problem was. They have ocean over wash and flooding on the oceanside and that flooding in Avon goes all the way across Highway 12 and closes Highway 12 which is the only north south artery as you know through the villages down there. Flooding shuts off Avon and then shuts off Hatteras Island and people that need to come north or go south. In addition, its lapping right into the backyards of a number of homes a few thousand feet north of the Avon Pier almost to the southern boundary of Avon. They have some significant erosion at houses that are right on the edge that are hanging on for dear life. So, with those problems in mind they are clamoring for a beach nourishment project. When we ran the model to try help them, there is only about \$8.5 million in the fund.

As I said before we try to make sure that we have money available to cover the future costs of maintenance for the projects that we have already done. Then we can have a rainy-day fund, if you will, that says we are going to have one year of debt service in the fund as well. The idea being that we have to have something in the fund if we were to have a storm in May or June that took the whole season out that debt we borrowed to do these projects has to be paid. We have enough money set aside and we could do that if that were to occur. That is one of the things we hold as well. In running the model, taking into account future costs, taking into account holding that money for that one-year debt service, we have again about \$8.5 million in the fund and Avon wants to do a project.

Well as luck would have it Southern Shores needs to do a project as well. Southern Shores has come to us and they have the money for their half, or their share. It is not necessarily half but for what they believe to be their share of the project and we are struggling to figure out how to do Avon as well.

We can probably do one or the other but without doing something we cannot do both, so we began looking at the fund. We began looking at what we are contributing and as luck would have it a few months ago each town and the county got a grant from the state for \$1.4 million to go to beach nourishment. It is not designated for any particular project, but it is designated to be used for beach nourishment.

In looking at that we began thinking how do we hold the towns harmless, how do we keep them with the same project that they anticipated going forward and still allow the other two projects that need to be done to be done as well. The answer is if we reduce the funding that we had planned to give to the towns by that \$1.4 million and put that back in the fund that allows us to do those other two projects and if the people in Avon are prepared to swallow a pretty significant tax increase down there. It would cost them around 40 cents on the hundred to do it. It would be a significant chunk, not for the whole village just for the ocean side. But doing that allows the fund to pay for Kitty Hawk as well as the other towns exactly as we had always planned to fund them.

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To do exactly the same project that we had always planned prior to receiving this grant. The model says we still have enough money to do the maintenance 5 years from now for Kitty Hawk and for the other towns as well as for the two projects that we are about to do.

What our board is saying is we need to get sand on the beaches throughout. We can keep and maintain the projects that are currently here in the towns, we can do the maintenance that was coming up in '22 for the Town of Kitty Hawk just like was planned and we can accomplish all these things by doing what I just described. That is what our plan is going forward. To reduce the funding.

You are the first town. I am going to see all the towns this week and next and have this conversation and from what we hear back from you all and if there are problems or things that we did not anticipate or issues ... if somebody tells us no it will not allow us to have the project that we all anticipated then we will look at it again. We may have to change the direction that we are going but that is where we are headed.

We are not looking necessarily for action from you all because it is not something that you have to approve or disapprove but it is something that we definitely want your input on. I work closely with your managers, and the mayors have worked closely together. Before covid we met monthly, each group, and talked. We have been able to work these things out. That is how we got all these projects done with the limited money that we had previously. We believe we can work this out as well.

That is where we are and that is what our plan is. I will stop for a moment and answer questions and then hear from you about concerns and issues. We will try to see if there is a way we can address them.

Perry: *The \$1.4 million was a state grant. So, in essence you are not taking that, you are reducing what we get out of the kitty of Dare County.*

Outten: *Right.*

Perry: *Because you cannot really touch that.*

Outten: *Right and presumably you would replace that with to get your project ...*

Perry: *I just want the public to understand.*

Outten: *We cannot take your grant money.*

Perry: *That is what I thought. What we are doing is giving up something you can in essence take anyway if you decide to. I am not suggesting that is the tone or where we are going but it is possible and is kind of where your model is having to go.*

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Outten: *If we are going to do Southern Shores and we are going to do Avon and try to address their problems as we did with the other towns this is the only way we can do it. Doug Carter and that group are the ones that run the models. They have been working with us. We did not do this last night. We have been working on it for several months trying to figure out, actually longer than that, we have been working with Avon for nearly a year trying to figure it out. We have done the studies. We are trying to push this faster than we normally would because if we can get Avon hooked in with the Buxton project that is already in the works then we can save a bunch of money and make our money go further. There is some urgency to getting to the towns and having these conversations so that at our next board meeting on the 19th we can make some decisions. But we do not want to make them without talking to the towns first and making sure we did not miss something.*

Perry: *The \$8.5 million in the fund. That is a total, not what you were saving. Is that in excess of what you were saving aside?*

Outten: *Yes. That is not the total in the fund. That is the excess dollars that are available.*

Perry: *Because we kept putting back whatever we saved.*

Outten: *Because the fund grows. I mean as the occupancy tax goes up the fund grows and the interest grows. When we do this the model, I think it is 2028 or so, something in that timeframe, before we have even \$5 million in excess funds. We are going to have used all of the funds available. We will have put probably close to a hundred million or more up north of Oregon Inlet and we will have put probably close to forty to fifty million south of Oregon Inlet. We have spread the money out fairly well. Avon and Southern Shores will be funding out of their own funds about 50% of the cost of their project. That is a little more than what Kitty Hawk was but that is because Kitty Hawk paid what it could pay. That is what these communities are doing. Trying to pay what they can pay and we are trying to make up the difference for them. That is where we are.*

Garriss: *I assume you have had a lot of requests from the people of Avon for some help.*

Outten: *Yes. The oceanside of Avon has been on us for a while and we have been to the legislature and tried to find money to help them. They have been to the legislature without us looking for money to try to help them with that project and have not been successful. Where we are is if we want to go forward this grant came at a fortuitous time and also, they have to be prepared to swallow, on the oceanside at least, a pretty big tax increase.*

Garriss: *I think you have done a lot of hard work and I do not think we have any choice in the matter really. I think it is the right to do.*

Outten: *Again, we have looked at this as a partnership with the towns and so if you are asking me if legally and technically ... yes, you do not have a choice. The board can vote but that is not how*

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we want to do it. That is not how I want to do it. I want to talk and if there are problems, I want to work with you to solve them, and not just me, but our board as well. That is why we are here.

Perry: *Well, I think we all want to help everybody. We are all in it together but the one thing I think is bothering all of us is when we got that surprise \$1.4 million, I think we said if we have inflation or if we have a downturn, which is certainly possible, we have a little bit of cushion. What happens if that happens and we do not have the \$1.4?*

Outten: *I do not know if I know the answer. I mean there is risk with everything and our model has a risk. We have made assumptions on escalating costs, we have made assumptions on growth of the fund, and certainly if any of those assumptions, with or without these dollars, are different than that then it could be a problem. That is true with anything when you are projecting out for 10 or 15 years like we are doing with this model. I cannot tell you do not worry about it mayor, there is no risk. That would be untrue. There is and we all acknowledge it but on the information we have ... we have been to the consultants. The ones that are doing your project are doing our projects, we are working with all of them and the numbers we have gotten ... we have gotten from them the escalators we have gotten from them all of those things. Our finance people have worked on the return dollars and the return dollars are nil. You are getting half a percent or if you get one percent on your money you are doing good right now because of the limited investment potential you can do with local government funds. Again, that is all factored in. We believe this will work. But can I tell you none of that is going to change? No, I cannot tell you that.*

Perry: *I wanted the public to understand we are aware of those sorts of things that need to be spoken to. When do you need an answer? I do not want to give it to you tonight. We have a councilmember missing but I can poll and get you one.*

Outten: *I am not as much looking for you to say yes, we are on board, or we voted and we say no, do not do that. I am looking more for what problems does this create for the Town of Kitty Hawk and then how do we solve those problems. I am looking for feedback more than approval. We want you on board. We worked hard to get everybody on board to help Kitty Hawk, Kill Devil Hills and Duck and Nags Head and we are trying to do the same thing with Southern Shores and Avon to make sure everybody can be protected.*

Our biggest fear in spending all of this money and we talked about it at some length in Kitty Hawk one night, if we do not do something in Kitty Hawk, Avon or Southern Shores and we have collapsing on the beach somewhere, which is likely to happen if we do not do anything, the press is going to say the Outer Banks has fallen in the water and we have this huge problem on the Outer Banks of North Carolina. That is going to negatively impact all of our towns and all of our communities and our tourism is what we all thrive on. It is our belief that we cannot let that happen. We cannot give that excuse for someone to tell us that we do not have some of the nicest beaches around, which we do, and we are very proud of them.

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Perry: *Kitty Hawk has certainly been on a lot of media's attention in the past that is for sure. And the media did equate that to the whole of the Outer Banks we know that too. How about I get back to you later because I want input and then I will give you something more direct. Will that work?*

Outten: *That will be fine. And if you talk with staff and if you have questions or thoughts or issues then please share them before we make this decision, so we do not miss something.*

Perry: *Okay. I do have one thing, let me give it to you. Will you take this and get back to me? I had been asked a question, did some research. After you get back to me in a proper time, I will pass it along as might be appropriate.*

Outten: *Okay.*

Perry: *Thank you Bobby. Anything else?*

Outten: *Thank you for having me and please call with any questions or concerns.*

Councilmembers Agenda:

Pruitt: *First of all, I would really like to thank Andy. He has worked hard in getting the trail connector grant. It has been almost 2 ½ maybe 3 years since Mayor Perry brought it to everyone's attention and I am really excited. I appreciate it Andy. Since I serve on the Tourism Board, I would like to thank them also for holding the grant for us. That helped us with the project.*

Garriss: *A thank you to all the staff. We are in a new year, 2021, hopefully it is going to be a brighter future for us. Happy New Year to the town staff and the citizens of Kitty Hawk.*

McClellan: *Happy New Year. Wear your masks, stay safe.*

Perry: *To add to what you said Jeff, folks do not realize how much effort goes into something like a PARTF grant. It is difficult to get, you are competing with the whole state. You have to put a lot of effort into it, a lot of research. Thank you.*

11. PUBLIC COMMENT

Perry: *We allow 3 minutes for public comment and the clerk will time it. If you go over, I will ask you to stop.*

1. David White, 3734 Hallett St., Kitty Hawk, NC: *Understood. My name is David White and I have a second residence at 3734 Hallett Street. First just let me say that I appreciate the work that the council does as well as the Recreation Committee. I am obviously here because of Hurdle Street and I want to thank you for your public service. It is work that is often unrecognized and*

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unrewarding or it is very rewarding but not recognized and appreciated. I want to offer my appreciation.

I am actually going to, based on comments from you mayor, I am going to reserve the rest of my NIMBY comments. I sent a letter to each of you and I have been on the other side of NIMBY issues, so I understand that.

I am going to take my time to also congratulate the council and manager for the trail connection grant. As a property owner and as somebody that is thinking about retirement and where I will retire, with Kitty Hawk in mind, it is an amenity I look forward to using frequently.

The other thing I want to offer is just to say that I really appreciated that video. I am with an organization that has, just in 2020, celebrated a 100-year anniversary and so that really struck a chord with me and I think it will strike a chord with a lot of people that are interested in the history of this very historic area and very well done. That is all I wanted to say.

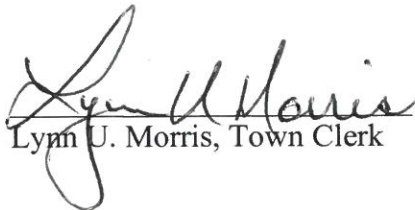
Council thanked Mr. White.

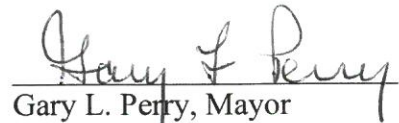
There were no further comments from the floor or on the telephone.

12. RECESS

Mayor Perry made a motion to recess to January 25, 2021 at 9 AM for Capital Improvements Plan Workshop here in the hall. Councilwoman McClean seconded and it was unanimously approved, 4-0.

These minutes were approved at the February 1, 2021 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor